



UNITED STATES PATENT AND TRADEMARK OFFICE

cm

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,837	12/11/2003	Andrew J. Cleveland	7273-70195-02	6796

24197 7590 09/07/2007
KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

EXAMINER

DESCHERE, ANDREW M

ART UNIT	PAPER NUMBER
----------	--------------

2836

MAIL DATE	DELIVERY MODE
-----------	---------------

09/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/732,837	CLEVELAND, ANDREW J.	
	Examiner	Art Unit	
	Andrew M. Deschere	2836	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27 and 29-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27 29-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment filed 23 August 2007 has amended claims 27, 29, 30, 32-35, and 41. Claims 1-26 and 28 were previously cancelled. Independent claims 27 and 35 now recite language regarding visual displays that "at least partially simultaneously" report information regarding first and second power phases. Independent claim 41 was previously presented.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 27 and 35 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "at least partially simultaneously" renders the claims indefinite. It is unclear to the Examiner how two actions may occur "partially" simultaneously; either they occur at the same time or they do not. In view of the telephonic interview with Mr. Justin Wagner on 16 March 2007, the Examiner will interpret the phrase "at least partially simultaneously" as meaning two actions overlap in their occurrences.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

Art Unit: 2836

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27, 29-33, 35, 38-41, and 44-46 rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent 6,628,009 (Chapel) in view of European Patent 324376 (Kobel).

Chapel discloses a load balanced polyphase power distributing system (Figures 1 and 4) with rack-mounted, elongated, vertically mounted power strips 30A, 30B, 30C, and 30D. Power is supplied to the system via polyphase input cables 4 and 5, and the system has outputs 31, 32, and 33 associated with phase inputs. Phase inputs 21, 22, and 23 are seen in the system input plug in Figure 3, along with neutral path 24 and ground path 25.

While Chapel discloses load balancing, there is no suggestion to use visual displays to report power information of multiple phases in the system. Kobel discloses an electronic overcurrent trip system that simultaneously measures current in all phases. The measured values are indicated on separate displays (elements 1, 2, and 3 in the Figure), which maintain the fault current values if a trip occurs. A combination of Chapel and Kobel would provide separate visual current displays for each phase in a power distribution system. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the overcurrent trip system of Kobel in the invention of Chapel to prevent overcurrent conditions and provide reliable analysis if a fault occurs.

Claims 34, 36, 37, 42, and 43 rejected under 35 U.S.C. 103(a) as being unpatentable over Chapel and Kobel in view of United States Patent 4,528,497 (Arato).

A combination of Chapel and Kobel provides a polyphase power distribution system with overcurrent detection and visual display of each phase current, but does not teach the use of a sensory or audible alarm when a trip occurs. Arato teaches a fault monitoring system for

Art Unit: 2836

electrical systems, and discloses that an overcurrent condition will actuate alarm circuitry (column 3, lines 52-55). Associated with the alarm circuitry are audible and visual alarms 60 (Figure 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide audible and visual alarms in the combination of Chapel and Kobel to provide a further safety measure to facilitate notification to the user of an overload condition.

Response to Arguments

Applicant's arguments filed 23 August 2007 have been fully considered but they are not persuasive. Arguments are drawn to similar limitations found in independent claims 27, 35, and 41.

Applicant asserts on page 8 that neither Kobel nor Chapel disclose displays "disposed in the power distribution housing" that "report at the power distribution housing". Examiner respectfully traverses. Chapel teaches a polyphase power distribution system, the system including equipment racks for mounting power consuming equipment (Chapel; column 2, lines 51-65). Kobel discloses simultaneous measurement and display of three current phases in a polyphase power network; visual display is provided on separate screens fitted in a front panel (Kobel; pages 3-5 of the English-language translation). As Chapel teaches a polyphase power system with a rack-mount and Kobel teaches monitoring a polyphase power network with a front panel, it would have been obvious to fasten the front panel of Kobel on a rack-mount of Chapel, providing current monitoring as well as overcurrent tripping.

Applicant suggests on pages 9-10 that prior similar systems to the claimed invention only contained a single current display. The invention of Kobel previously provided advantages over the prior art due to its separate screens for display of individual phase currents, rather than a single, sequential display (Kobel; page 4 of the English-language translation).

Art Unit: 2836

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M. Deschere whose telephone number is (571) 272-8391. The examiner can normally be reached on M-F 9:30-6:00.

Art Unit: 2836

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Sherry can be reached on (571) 272-2800 x36. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AMD


MICHAEL SHERRY
SUPERVISORY PATENT EXAMINER